

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN SENATE JUNE 13, 2006

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 974**

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**Introduced by Assembly Member Nunez**

February 18, 2005

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An act to add Chapter 3 (commencing with Section 3260) to Part 4 of Division 1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL’S DIGEST

AB 974, as amended, Nunez. Electricity: electrical transmission infrastructure planning and investment.

Existing law establishes the State Energy Resources Conservation and Development Commission (Energy Commission) in the Resources Agency. Existing law requires the Energy Commission to conduct biennial assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The Energy Commission is required to adopt a biennial integrated energy policy by November 1 that contains an overview of major energy trends and issues facing the state. Existing law requires the Energy Commission to adopt a strategic plan for the state’s electrical transmission grid using existing resources, to be included in the integrated energy policy report adopted on November 1, 2005, which identifies and recommends actions required to implement investments needed to ensure reliability, relieve congestion, and to meet future growth in electrical load and

generation, including renewable resources, energy efficiency, and other demand reduction measures.

Under existing law, the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The existing Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require that construction.

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) as a public benefit nonprofit corporation. Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council.

This bill would enact the Electrical Transmission Infrastructure Investment Act of 2006. The bill would require that every electrical corporation that owns electrical transmission facilities plan for, and provide, sufficient electrical transmission facilities and any upgrades or expansion of those facilities as are ~~reasonably~~ necessary to ensure reliable transmission service to its customers. The bill would require every electrical corporation that owns electrical transmission facilities, ~~by January 1, 2008, and each January 1 thereafter, to July 1, 2008, and each July 1 thereafter, to provide a~~ report to the CPUC identifying any electrical transmission facility, upgrade, or enhancement that is ~~reasonably~~ necessary to ensure reliable transmission service to its customers, *in coordination with the ISO.*

This bill would require the ISO to identify upgrades and expansions of the electrical transmission system ~~that are under its operational control as are reasonably necessary to maintain adequate operational reliability and ensure the efficient use and operation of the transmission system by delivering lower cost electricity to California consumers as are necessary for its control area.~~ The bill would require the ISO, ~~beginning January 1, 2008, and each January 1 July 1, 2008, and each July 1 thereafter, to provide a~~ report to the CPUC, the

Energy Commission, and the Electricity Oversight Board identifying upgrades and expansions of the electrical transmission system that are necessary to maintain operational reliability or deliver lower cost electricity to California consumers and to identify any transmission facility, system upgrade, or system enhancement necessary to alleviate any operational reliability deficiency *upgrades and expansions of the electrical transmission system as are necessary for its control area.*

The bill would require the CPUC ~~to authorize, in acting upon any application for a certificate of public convenience and necessity, to approve those investments in the electrical transmission infrastructure that it determines are reasonable and necessary to maintain or enhance grid reliability and efficient use, to maintain or enhance efficient use of the grid, or that facilitate achievement of renewable energy resource goals pursuant to a specified law.~~ The bill would require the CPUC, ~~when considering a proposed transmission system upgrade or enhancement to alleviate an operational reliability deficiency identified by the ISO, to authorize the upgrade or enhancement, or to authorize an alternative to the upgrade or enhancement that is sufficient to alleviate the operational reliability deficiency in acting upon any application for a certificate of public convenience and necessity, to consider the most recent report of the ISO.~~ The bill would require the CPUC to streamline the transmission permitting and siting process by eliminating regulatory overlap and duplication, to reduce the time needed to review and approve a certificate of public convenience and necessity for transmission facilities and systems, to expedite the review and approval of new or expanded transmission facilities and systems located within state or federally designated transmission corridors, ~~and to authorize the recovery in rates of the costs the CPUC determines are reasonably incurred by an electrical corporation to plan, design, engineer, construct, operate, and maintain upgrades, enhancements, or additions to transmission facilities and systems, to the extent those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission.~~ *The bill would authorize the CPUC, if it finds that the costs were prudently incurred in accordance with a specified law, allow recovery in rates of any increase in transmission costs incurred by an electrical corporation in planning, designing, and engineering the reconfiguration, replacement, expansion, or construction, of transmission facilities to the extent that those costs are not otherwise authorized for recovery in rates approved by the Federal Energy*

*Regulatory Commission.* The bill would require the CPUC to report to the Legislature ~~by January 1, beginning in 2008,~~ summarizing the status of every application for a certificate of public convenience and necessity filed by an electrical corporation for a transmission facility, upgrade, or enhancement and to annually update its transmission report as part of its annual workplan.

The bill would require every local publicly owned electrical utility, as defined, that owns electrical transmission facilities to plan for, and provide, sufficient electrical transmission facilities and any upgrades or expansion of those facilities as are reasonably necessary to ensure reliable transmission service to its customers.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 3 (commencing with Section 3260) is  
2 added to Part 4 of Division 1 of the Public Utilities Code, to read:

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#### CHAPTER 3. TRANSMISSION OF ELECTRICITY

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6 3260. (a) This ~~article~~ *chapter* shall be known, and may be  
7 cited, as the Electrical Transmission Infrastructure Investment  
8 Act of 2006.

9 (b) For purposes of this chapter, the following terms have the  
10 following meanings:

11 (1) "Energy Commission" means the State Energy Resources  
12 Conservation and Development Commission.

13 (2) "ISO" means the Independent System Operator established  
14 pursuant to Article 2 (commencing with Section 334) and  
15 operating pursuant to Article 3 (commencing with Section 345)  
16 of Part 1 of Division 1.

17 (3) "Local publicly owned electric utility" has the same  
18 meaning as set forth in Section 9604.

19 (c) The Legislature finds and declares the following:

20 (1) Planning for, and investing in, electrical transmission  
21 infrastructure to ensure its continued efficient use and reliable  
22 operation is essential to the health, safety, and economic  
23 well-being of California consumers and businesses.

1 (2) The responsibility for planning and investing in electrical  
2 transmission infrastructure has historically been carried out as  
3 part of an electrical corporation's obligations to provide reliable,  
4 reasonably priced, electric service.

5 (3) Changes that have occurred over the last decade in the  
6 structure, operation, and regulation of the electrical industry  
7 make it appropriate and necessary to clarify and affirm the  
8 respective responsibilities and obligations of industry participants  
9 for planning and investing in electrical transmission  
10 infrastructure, to ensure that adequate investments are made in a  
11 timely manner so that the state's electrical transmission grid  
12 system continues to operate in an efficient and reliable manner.

13 (d) It is the policy of this state and the intent of the Legislature  
14 that the commission, the Energy Commission, the ISO, and  
15 electrical corporations ensure that adequate investments are made  
16 in a timely manner so that the state's electrical transmission  
17 system continues to operate in an efficient and reliable manner.

18 3261. (a) Every electrical corporation that owns electrical  
19 transmission facilities shall plan for, and provide, sufficient  
20 electrical transmission facilities and any upgrades or expansion  
21 of those facilities as are ~~reasonably~~ necessary to ensure reliable  
22 transmission service to its customers, consistent with Sections  
23 ~~380 and 399.25~~, 399.25, and 451. This obligation of an electrical  
24 corporation includes those customers that receive distribution  
25 service from the electrical corporation, without regard to whether  
26 the customer receives electric service through a direct transaction  
27 with an electric service provider.

28 (b) Every electrical corporation that owns electrical  
29 transmission facilities shall, by ~~January 1, 2008, and each~~  
30 ~~January 1 thereafter~~, *July 1, 2008, and each July 1 thereafter*,  
31 *provide a* report to the commission identifying any electrical  
32 transmission facility, upgrade, or enhancement that is reasonably  
33 necessary to ensure reliable transmission service to its customers,  
34 ~~consistent with Sections 380 and 399.25 in coordination with the~~  
35 *Independent System Operator, consistent with Sections 380,*  
36 *399.25, and 451.* Each report shall include those transmission  
37 facilities, upgrades, or enhancements ~~necessary to alleviate any~~  
38 ~~operational reliability deficiency~~ identified by the Independent  
39 System Operator pursuant to Section 3262. Each report shall look  
40 forward at least 10 years and shall consider the most recent

1 assessment of electrical load growth forecast by the Energy  
2 Commission.

3 3262. (a) Consistent with its obligations pursuant to Article 3  
4 (commencing with Section 345), the ISO shall identify upgrades  
5 and expansions of the electrical transmission system ~~that are~~  
6 ~~under its operational control as are reasonably necessary to~~  
7 ~~accomplish both of the following:~~

8 ~~(1) Maintain adequate operational reliability.~~

9 ~~(2) Ensure the efficient use and operation of the transmission~~  
10 ~~system by delivering lower cost electricity to California~~  
11 ~~consumers as are necessary for its control area.~~

12 (b) The ISO shall, beginning ~~January 1, 2008, and each~~  
13 ~~January 1 July 1, 2008, and each July 1~~ thereafter, after public  
14 review and comment consistent with Section 345.5, *provide a*  
15 report to the commission, the Energy Commission, and the  
16 Electricity Oversight Board. The report shall identify upgrades  
17 and expansions of the electrical transmission system ~~that are~~  
18 ~~necessary to maintain operational reliability or deliver lower cost~~  
19 ~~electricity to California consumers pursuant to subdivision (a).~~  
20 Each report shall look forward at least 10 years and shall  
21 consider the most recent assessment of electrical load growth  
22 forecast by the Energy Commission. ~~The report shall identify any~~  
23 ~~transmission facility, system upgrade, or system enhancement~~  
24 ~~necessary to alleviate any operational reliability deficiency in~~  
25 ~~accordance with criteria or standards established by the Western~~  
26 ~~Electricity Coordinating Council, the North American Electric~~  
27 ~~Reliability Council, or their successors, or with more stringent~~  
28 ~~reliability criteria proposed by the ISO and approved by the~~  
29 ~~Electricity Oversight Board.~~

30 3263. (a) ~~The commission shall authorize~~ *In acting upon any*  
31 *application for a certificate of public convenience and necessity*  
32 *pursuant to Chapter 5 (commencing with Section 1001), the*  
33 *commission shall approve* those investments in the electrical  
34 transmission infrastructure that it determines are reasonable and  
35 necessary to maintain or enhance grid reliability ~~and efficient~~  
36 ~~use.~~

37 ~~(b) In considering a proposed transmission system upgrade or~~  
38 ~~enhancement to alleviate an operational reliability deficiency~~  
39 ~~identified by the ISO pursuant to Section 3262, the commission~~  
40 ~~shall authorize the upgrade or enhancement, or shall authorize an~~

~~alternative to the upgrade or enhancement that is sufficient to alleviate the operational reliability deficiency, to maintain or enhance efficient use of the grid, or that facilitate achievement of renewable energy resource goals pursuant to Section 399.25.~~

*(b) In acting upon any application for a certificate of public convenience and necessity pursuant to Chapter 5 (commencing with Section 1001), the commission shall consider the most recent report of the Independent System Operator made pursuant to Section 3262.*

(c) Consistent with all applicable environmental laws and those laws and commission rules providing for public review and participation, the commission shall do all of the following:

(1) Streamline the transmission permitting and siting process by eliminating regulatory overlap and duplication.

(2) Reduce the time needed to review and approve a certificate of public convenience and necessity for transmission facilities and systems.

(3) Expedite the review ~~and approval~~ of new or expanded transmission facilities and systems located within state or federally designated transmission corridors.

~~(d) The commission shall authorize the recovery in rates of the costs it determines are reasonably incurred by an electrical corporation to plan, design, engineer, construct, operate, and maintain upgrades, enhancements, or additions to transmission facilities and systems authorized pursuant to this chapter, to the extent those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission.~~

*(d) The commission may, if it finds that the costs were prudently incurred in accordance with subdivision (a) of Section 454, allow recovery in rates of any increase in transmission costs incurred by an electrical corporation in planning, designing, and engineering the reconfiguration, replacement, expansion, or construction, of transmission facilities to the extent that those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission.*

~~(e) By January 1, 2008, the commission shall~~ *The commission shall, beginning in 2008, report to the Legislature summarizing the status of every application for a certificate of public convenience and necessity filed by an electrical corporation for a transmission facility, upgrade, or enhancement. The report shall*

1 include actions the commission has taken to facilitate the  
2 permitting and siting of the facilities and a schedule to ensure  
3 adequate investments are made in a timely manner in electrical  
4 transmission infrastructure to ensure that the state's electrical  
5 transmission system continues to operate in an efficient and  
6 reliable manner. The commission shall annually update its  
7 transmission report as part of its annual workplan.

8 (f) Nothing in this section shall delay, deter, or otherwise  
9 impede the planning, designing, engineering, permitting, siting,  
10 or construction of any transmission improvement for which a  
11 certificate of public convenience and necessity has been filed  
12 with the commission before January 1, 2007.

13 3264. (a) Every local publicly owned electric utility that  
14 owns electrical transmission facilities shall plan for, and provide,  
15 sufficient electrical transmission facilities and any upgrades or  
16 expansion of those facilities as are reasonably necessary to  
17 ensure reliable transmission service to its customers.

18 (b) Every local publicly owned electric utility that owns  
19 electrical transmission facilities shall plan for, and provide,  
20 sufficient electrical transmission facilities and any upgrades or  
21 expansion of those facilities in a manner that recognizes the  
22 intent of the Legislature, *in accordance with this chapter*, to  
23 ensure that adequate investments are made in a timely manner so  
24 that the state's electrical transmission system continues to  
25 operate in an efficient and reliable manner.